So far as the supply of military hardware is concerned, we made it quite clear that we had not given any military hardware to the Sri Lankan authorities and the Sri Lankan military sources. They are buying it from other sources. But the assistance and aid, which we are giving to them, that is also tied with some development projects, not for buying any weapons or military hardware. Thank you, Sir.

MR. DEPUTY CHAIRMAN: We will now take up the Carriage by Air (Amendment) Bill, 2008. ...*(Interruptions)*...

SHRI D. RAJA: What about the supply of radars, Sir? ...*(Interruptions)*...

SHRI PRANAB MUKHERJEE: Radars we had given them long ago. It is not merely for the military purpose. It is also for civilian purpose. ...*(Interruptions)*...

SHRI TIRUCHI SIVA: What about my clarification, Sir? ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: No, no ...*(Interruptions)*. That is over now. *(Interruptions)* No further clarifications, please. ...*(Interruptions)*... Shri Praful Patel. ...*(Interruptions)*...

SHRI TIRUCHI SIVA: I have asked some clarifications, Sir. ...*(Interruptions)*... You are not permitting me. ...*(Interruptions)*... It is a very sensitive issue, Sir. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Mr. Siva, the entire House agrees that it is a sensitive issue. The hon. Minister has clarified all the issues. ...*(Interruptions)*... It can't go on.

SHRI TIRUCHI SIVA: Sir, my clarification has not been replied.

MR. DEPUTY CHAIRMAN: He has replied. ...*(Interruptions)*...

SHRI TIRUCHI SIVA: Sir, I am asking whether the matter will be taken up to the U.N., as the hon. Minister said that he had interacted with other countries. Kindly clarify this, Sir. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: No, no. ...*(Interruptions)*... Please. ...*(Interruptions)*... Mr. Praful Patel to move the Bill.

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GOVERNMENT BILL

The Carriage by Air (Amendment) Bill, 2008

THE MINISTER OF STATE OF THE MINISTRY OF CIVIL AVIATION (SHRI PRAFUL PATEL): Sir, I beg to move:

That the Bill further to amend the Carriage by Air Act, 1972, as passed by Lok Sabha, be taken into consideration.

Sir, I place before this august House for its consideration and passing the Carriage by Air (Amendment) Bill, 2008, which has been passed by the Lok Sabha on 30th April 2008.

Sir, as you are all aware, during the last decade, there have been significant developments in the civil aviation sector bringing India to the core of the international civil aviation scenario. We have now, in fact, become a trendsetter due to our size and impressive growth rates. To further place India in the ranks of global leaders, I propose this legislation which will facilitate higher compensation and prevent Indian passengers from discrimination.

On our proposal for amendment of the Act, I would like to mention that there is an international legal regime governing the liability of air carriers for injury or death of passengers, for destruction or loss of or damage to baggage or cargo, and losses caused by delay in international carriage of passengers, baggage and cargo. This regime is set out in a number of international instruments.

MR. DEPUTY CHAIRMAN: Hon. Members, legislative business is going on, I request you to kindly maintain decorum.

SHRI PRAFUL PATEL: However, India has so far ratified only two instruments, namely, the Warsaw Convention, 1929, and the Warsaw Convention as amended by The Hague Protocol, 1955 and the same has been given effect to by the Carriage by Air Act, 1972. India has not yet acceded to the Montreal Convention, 1999. However, it has become necessary now for India to accede to this Convention to bring uniformity in the applications of the liability regime ending the multiplicity of international instruments. We have to bring India on a par with all international conventions.

The various instruments adopted by the International Civil Aviation Organisation failed to receive the kind of universal acceptance as the present Warsaw Convention and the Hague Protocol had received. Consequently their coming into force was inordinately delayed due to which several States chose to go ahead with their unilateral decisions to increase the liability limits. This, therefore, resulted in a situation where several different combinations of liability regimes came into existence defying the much desired uniformity and unification of international law in this field. The ICAO then embarked upon serious initiative for a socio-economic study of the levels of compensation and undertook the modernisation and consolidation of the Warsaw System, which produced the text of the new Convention.

Finally, the Montreal Convention, 1999 was adopted for the unification of certain rules for international carriage by air which aims to achieve the dual purpose of modernising as well as consolidating the various instruments comprising the Warsaw System.

Sir, when there is an injury or there is a loss of baggage or cargo, today, you get one kind of compensation in India, other kind of compensation in America, and some other kind of

compensation in Europe. Therefore, the Montreal Convention is to bring every country which is a signatory to the ICAO on a par with other conventions as far as compensation or liability is concerned. Therefore, we also as a member State are now required to do it, because it would be discriminatory as long as we are not a signatory to it. Suppose our passenger is on an international aircraft, not of India. There would be two liability regimes for Indian passenger, because we have not ratified it. So, he would be eligible for 'x' compensation which would be, at the present moment, less than what his counterpart traveller on the same aircraft would be entitled to. Because the country of origin of that aircraft or the domicile of that passenger would be governed by the other regime. Therefore, we as a member nation to the ICAO are required to be acceding to this convention. Therefore, it would require a change in the existing Act itself. That is what this legislation seeks to bring about.

It has, of course, been vetted by the Standing Committee and has been passed by the Lok Sabha in April 2008. Therefore, I would request this august House to take up this legislation and extend its full support.

The question was proposed.

SHRI RAJIV PRATAP RUDY (Bihar): Thank you, Sir. Most of the time I am generally impressed when this Minister speaks because there is a lot of clarity when he speaks, and that impresses me. But I get upset because in the last couple of years, many things have been happening in the Civil Aviation sector. Half his time is spent with the Left Parties which did not allow most of the things to happen in the Civil Aviation sector, and they spent most of the time there, and now, he is there with the Congress Party. I do not know whether Mr. Chidambaram had a liking for him or not. But all throughout, whatever things he proposed, they were shelved. As a result, the industry which saw a growth of about 40 per cent in the domestic sector and about 15 per cent in the international sector, has almost collapsed. This year the Aviation industry would record a negative growth of around 15 per cent which has never happened in the history of Aviation. Why I need to mention this Bill is because this is a very important protocol which needs to be signed because we had the Warsaw Convention which was ratified by India, and thereafter, after the Hague Protocol, we need to ratify this Montreal Convention because it is important, and it is important because you have to bear for the carriages, you have to pay the cost at the international level, it is for accidents, it is for cargo, it is for injury, it is for loss. So, it is a very important Protocol which needs to be signed because the passengers originating from India, even if they are foreigners, will not have that advantage because we need to rationalise and harmonise it. But, Sir, the point here which I think, and the Minister must be aware that what is happening in the Civil Aviation sector and whether the airlines or the operators or the cargo or the travel agents, who is going to take this burden because internationally, it is going to

be at parity, who is going to take this burden because I think, even some of the airlines are not happy with the provision? But the question is, this needs to be addressed to a certain extent, and I think, it is a consumer right sort of a thing which needs to be addressed.

As the airlines industry stands today, I do not know, the hon. Minister, Mr. Praful Patel, must have made a lot of attempt because if you recall during the NDA regime, we had given the slew of incentives to the industry which saw this huge growth which took place, whether it was reducing the excise duty from 16 per cent to 8 per cent, the beautiful airports which you see in this country today, the credit must go to the NDA Government because for the first time when we talked about PPP and privatization, when we are talking Delhi and Mumbai, they did not start it. It was Atal Bihari Vajpayeeji and the NDA Government which took that proposal to the Cabinet because after that, this Government did not address any of these airports. Even if you take the two green field projects, whether it is Shamshabad and Devanahalli in Bangalore, these are all the creation of the NDA Government. After that, there has not been a single green field project. So, the slew of measures given to the UPA Government, and I must admit that my friend Praful Patel here, he did extremely well carrying on all what we did in the past. But he was virtually slaughtered in the last phase, and the decisions couple of which he has taken, I do not know the merger of Indian Airlines and Air India which possibly has turned out to be a complete disaster, I don't think ever in the history of India a decision which has come out to be a biggest disaster for the Government has taken place. My only contention here is, I am concerned about those who are operating the Civil Aviation sector. Now recently, we also saw that they bailed out the DIAL, the Delhi International Airport and they introduced passenger fee which would start from Ist March. But they have introduced something called the ADF. Now, ADF means any passenger moving out from Delhi will have to pay 200 rupees, and any international passenger will have to pay 1200 rupees. I was going through the Budget document which the hon. Minister has got approved, and there they have given their provision for a big bail out package for Indian Airlines and Air India which is in the red because of merger or whatsoever reasons. So, we were wondering. I think, there was something like that. But we are also wondering when this passenger fee had to be imposed again on the passengers because in our time, we also had couple of taxes called IATT, FTT. We absolutely removed all of them because we wanted to incentivise the industry, and that is how the Civil Aviation sector moved. But my question here is, because the hon. Minister has to address because these are additional costs being imposed on the Civil Aviation sector. Now, the passengers will have to pay these 1200 rupees or 200 rupees. There, they are talking about improving the equity in Indian Airlines Air India balance sheet by saying that there would 1500 crores soft loan and 1,000 crores equity. That would have been a possibility with the Airports Authority of India increasing the equity in the overall DIAL project

here. They did not do so. I am amazed why they did not do so because if they would have increased the equity of the Airports Authority of India, then their balance sheet would have been better and they could have got more loans.

Now, there are many things which are happening in the civil aviation sector. This is what the country is possibly unable to understand, and the net outcome is, the sufferer is the common passenger, the *aam admi*. The policy of the NDA Government saw the *aam admi* get into the skies. Virtually, I do not blame Mr. Praful for that, but the partners which he has been sharing have resulted in the collapse. That is why I would suggest to Mr. Praful, "You have had enough with them. This is a sinking ship. You have done a good job, man. And you have reasonably done a good job, but under certain compulsions you could not perform!" I have also come to know that many other people are talking to their leaders also. This is the time to abandon them. I just warn you that this is the time to abandon them because with you as a performing Minister, the delivery did not take place. And now, you are taking measures which would add burden to the common passengers. It will not go well with you." Sir, my suggestion to my humble friend is, this is an important Bill which needs to be passed. It should have been done earlier. I do not know why it has been delayed. But you have to start rethinking if you think about the future of this nation, and where you stand now, that needs to be rectified. So, friends, there are a couple of suggestions which I would like to make. I must admit, your performance, as a Minister, has been reasonable good.

PROF. P.J. KURIEN: It is an open canvassing, Sir, which you are allowing!

MR. DEPUTY CHAIRMAN: I will allow you; you can also do that!

SHRI RAJIV PRATAP RUDY: Except that, Sir, his attitude towards the passengers, basically the high cost of aviation. ...*(Interruptions)*... Now, I have heard his statement about cartelisation. This was a Government where we saw what had happened. Under the nose of this Government, we saw Jet Airlines buying over Sahara. In this Government, we saw the merger of Indian Airlines and Air India. In this Government, we saw the Indian Kingfishers taking over Deccan. What was all this? In the name of consolidation, there was a cartelisation which has been created. And now, when they raise the fares, you cannot imagine, Sir, पहली बार इस देश में होगा कि 24 महीने में 12 बार fares have been raised! This has never happened! Twelve times! Twelve times, fares have been raised in the last 24 months! Now, there is a cartel which has come. We saw that by launching of the low-cost carriers, we created a situation where we had demolished the cartel. Now, this Government are saying, the cartel has come back again. The prices are going up; again, it is skyrocketing. So, there is a situation, my friend, where you have run out of time. I do not know whether, with this combination, you will ever get the time. But you have run out of time; I appreciate your good job. But then, you have put the civil aviation sector in the trap by your own choice or by the choice of your friends; I do now know. But your

intentions have been good; that I have known for personal reasons! Sir, with all this which I wanted to place before the august House, again, I would say that this Bill needs to be synchronised.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND THE MINISTER OF STATE IN THE MINISTRY OF PLANNING (SHRI V. NARAYANASAMY): He has not run out of time. It is slightly delayed!

SHRI RAJIV PRATAP RUDY: So, I endorse this Bill. This needs to be synchronised. Some address has to be made as far as the cost is concerned. From where it is going to come, I could not know because I read through the Standing Committee Report. I could not know how this is going to move; who foots the bill for these high escalations. And I think, this Bill needs to be supported. That is all, Sir.

SHRI S.S. AHLUWALIA (Jharkhand): Mr. Deputy Chairman, Sir, my colleague, Mr. Rajiv Pratap Rudy, addressed the issue. I have gone through the Bill, just now, sitting over here. There are six features of this Bill, and they are very important. One should know about this. The amount of compensation for death or injury has been enhanced to one lakh Special Drawing Rights, *i.e.* SDRs. Instead of Gold Francs which, after conversion, came to US$20,000. Now, the last question asked by him was: Who is going to pay the Bill? Then, the choice of jurisdiction has been expanded to include the place of domicile of a passenger. How is it going to help our Indian community? There is a provision for advance payment in case of death and bodily injury. Then, there are provisions for review of limits of liability, based on inflation, so that the need to amend the convention is obviated. I want to know how frequently this liability, based on inflation, will be reviewed; at what intervals, you will review this, and whether there is a provision for the review of such things or not.

Then there is a reorganisation of use of electronic documents such as e-tickets. E-tickets you have introduced now. Earlier, in our air ticket jacket, it was mentioned that your insurance is guaranteed; this much of insurance is guaranteed. Now, in e-ticket jacket, nothing is mentioned. Nothing is mentioned, Sir. That should come on the e-ticket also because when you get the e-ticket, sometimes the airlines do not see the e-ticket. They issue your boarding card only. You know about the boarding card. That is all and there is nothing written on that. To bring uniformity in the application of liability regime in the multiplicity of international instruments is the necessity of this Bill. You are bringing this uniformity. I am concerned about two things. How are you going to manage the money? How are you going to review the inflation? Whenever inflation takes place, how are you going to increase it? Is there any review committee at the international level or at the national level? By what time are you going to frame the rules for this?

SHRI PRAFUL PATEL: Thank you, Mr. Deputy Chairman, Sir. I am most delighted to hear the comments of my predecessor. Anyway, while, on the one hand, he has chosen to heap

some praises on my work, on the other, he has also tried to run us down as a Government in some form or the other. I accept the collective responsibility and, therefore, I don't accept anything of what he has said, including the praise that he has showered on me. Anyway, nonetheless, I would say that it is all well meaning. On many issues which he has raised, I can only say that the aviation sector has recorded a very robust growth in the last few years and has also seen a marginal decline. It may not be 15 per cent. Whatever it is, it is a decline in the last two quarters. The reasons are very well known to everybody, not only in the country but also across the world. Aviation is not only all about travelling within India but also outside India. The external environment, the internal environment after the 26th November incident in Mumbai, the economic slowdown, etc., are all factors which are, in a way, contributing to it. Nonetheless, I can assure you that aviation is on a very firm growth trajectory irrespective of minor hiccups here and there. I don't want to get into any long arguments on who did and what. The fact is that the proof of the pudding is in the eating. Whether you like it or not, the credit for a lot of reforms in the aviation sector must go to this Government, no matter what you might have done in the past. That apart, I think, all the decisions of the Government are well intentioned and they are in keeping with the interest of the passengers and connectivity. I can certainly say with a sense of satisfaction that we have laid the foundation for a very sound growth of the aviation sector and a good regime in aviation for all the time to come.

I don't want to go into too much of details. There is a limited issue in this Bill. It is about fixing liability and bringing India to the international level in respect of the compensation that is supposed to be paid to the passengers.

Shri Ahluwalia asked, "What is the review mechanism?" Well, I think, it is an international protocol. I think, the review mechanism shall lie with an international body like all the previous ratifications or changes which have been made through a protocol. We have the Montreal Convention, which was the last, the Hague Protocol, the Warsaw Convention, etc.

SHRI S.S. AHLUWALIA: The compensation should be inflation related.

SHRI PRAFUL PATEL: The inflation-related compensation shall also have to go there because ultimately inflation is by what level we determine it. Again, what we give to a passenger out of India shall also be the same as has to be given by a member signatory to the ITO. So, that is, in fact, where we are lagging and we are trying to improve that by bringing ourselves on a par. But the review mechanism again shall be through an international convention. That much I can tell you.

As regards the question as to who bears the liability, well, ultimately it is the carrier's responsibility. All this accruing responsibility of any accident, injury, theft or any other loss of cargo shall be on the carrier. But the carrier is also, in a way, taking insurance and the countries where they are paying the premium are the countries where we are already flying. The carriers are already paying the premium on the insurance based on the liability which they are, in a way,

going to accrue elsewhere. So, we, as of now, by signing this or agreeing to this change of legislation, are not going to incur any extra liability. Our carriers, which are flying internationally, are already governed by the premium on which the capping would be on the basis of international liability. So, I don't think there is any physical change in terms of cost to a carrier. But it would certainly be in the interest of the Indian passengers especially to be able to get compensation based on what his counterpart from say, the USA or Europe, would get while travelling in the same aircraft. When he gets compensation, our passenger's compensation would be equivalent to what that passenger gets. I don't think there is any extra outgo. The fact is that we are actually protecting our own passengers' interest, as much as we are looking at going into an international benchmark or signing an international protocol. I think this is a very limited issue. I don't want to go into too many details. I can keep on answering and going into every single issue. If this broadly satisfies the Members, I don't think we should go into too many details. I would earnestly urge the entire House to accept this legislation, wholeheartedly, keeping in view the interest of the Indian travelling public. I can once again assure my friends on the other side that we are firmly in the seat. Don't worry! Nobody is going to take away our seat so easily, no matter what your good intentions are. I am very happy that you are looking at new friends. But for the moment, I think you should be happy where you are and that is the right place to be. Thank you.

MR. DEPUTY CHAIRMAN: The question is:

That the Carriage by Air (Amendment) Bill, 2008, as passed by Lok Sabha be taken into consideration.

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 to 10 were added to the Bill.

CLAUSE 1 - Short Title and Commencement

MR. DEPUTY CHAIRMAN: In Clause 1, there is one Amendment (No. 2) by the hon. Minister.

SHRI PRAFUL PATEL: Sir, I move:

That at page 1, line 3, *for* the figure "2008", the figure "2009" be *substituted*.

The question was put and the motion was adopted.
Clause 1, as amended, was added to the Bill.

ENACTING FORMULA

MR. DEPUTY CHAIRMAN: In the Enacting Formula, there is one amendment (No. 1) by the hon. Minister.

SHRI PRAFUL PATEL: Sir, I move:

That at page 1, line 1, *for* the word "Fifty-ninth", the word "Sixtieth" be *substituted*.

The question was put and the motion was adopted.
The Enacting Formula, as amended, was added to the Bill.
The Title was added to the Bill.

SHRI PRAFUL PATEL: Sir, I move:

That the Bill, as amended, be passed.

The question was put and the motion was adopted.

MR. DEPUTY CHAIRMAN: Now, Mr. Narayanasamy is fully exhausted.

SHRI V. NARAYANASAMY: Sir, there is one more Bill. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: The House is adjourned to meet tomorrow at 11 a.m.

The House then adjourned at four minutes past seven of the clock till eleven of the clock on Thursday, the 19th February, 2009.